

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

AMY BRYANT, M.D., et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	1:16CV1368
	)	
JIM WOODALL, et al.,	)	
	)	
Defendants.	)	

**ORDER**

This court has reviewed the record in this case. In an effort to avoid confusion, this court has determined, sua sponte, that the original motion for summary judgment should be denied as not ripe on the condition that the motion may be refiled upon completion of the limited discovery permitted, all as further explained herein.

Plaintiffs filed their complaint on November 30, 2016 (Doc. 1) and shortly thereafter filed a motion for summary judgment (Doc. 13). Defendants thereafter filed an answer (Doc. 20) and a motion to expedite discovery (Doc. 21). On April 7, 2017, the Magistrate Judge entered an order permitting Defendants to conduct discovery on certain limited issues pursuant to Fed. R. Civ. P. 56(d). (Doc. 31.) Plaintiffs objected and on June 1, 2017, this court affirmed the order of the Magistrate Judge. (Doc. 36.) Discovery has proceeded in this case and is presently

scheduled to conclude on September 29, 2017. (Text Order, Docket Entry 07/26/2017.) Defendants' response to Plaintiffs' motion for summary judgment will be due on or before the expiration of 30 days following completion of the discovery period. (Text Order, Docket Entry 04/24/2017.)

It appears to this court that the summary judgment matters will now likely include facts produced and examined during the discovery period. Furthermore, Plaintiffs' pending motion for summary judgment is not ripe in light of the allowed discovery. While the original motion for summary judgment (Doc. 13) framed the issues for purposes of Defendants' discovery, the order allowing discovery likely renders Plaintiffs' motion moot upon completion of discovery.

In light of the foregoing, this court finds it would be in the interests of justice and help avoid confusion to reopen the summary judgment briefing to permit Plaintiffs to amend and refile their motion for summary judgment and brief in support thereof as necessary to account for new matters arising during discovery. It may be that the issues have not changed, in which case Plaintiffs may simply refile their original motion and brief. Defendants shall file a response within 30 days after Plaintiffs' motion for summary judgment is refiled.

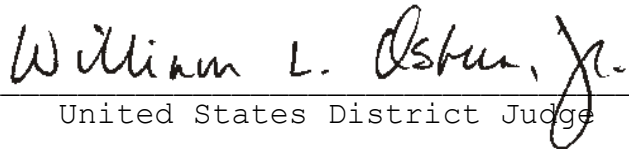
Because this order is entered sua sponte, it will be stayed for ten days to permit the parties an opportunity to object to the order. If any objection is filed, the stay will continue in effect until further order is issued by this court or the Magistrate Judge.

**IT IS THEREFORE ORDERED** that Plaintiffs' motion for summary judgment (Doc. 13) is **DENIED WITHOUT PREJUDICE** as **NOT RIPE** and **MOOT**.

**IT IS FURTHER ORDERED** that Plaintiffs may file a new motion for summary judgment and brief in support thereof within 30 days of the close of discovery. Defendants shall file a response within 30 days of the filing of Plaintiffs' motion.

**IT IS FURTHER ORDERED** that this order is hereby **STAYED** for a period of ten calendar days from the date of the filing of this order to permit the filing of any objections from the parties. If any objections are filed, the stay will continue in effect until further ruling of this court or the Magistrate Judge. If no objections are filed, the stay shall terminate and the order shall become effective.

This the 14th day of September, 2017.

  
United States District Judge